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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,606	03/23/2004	Eiji Nakai	362-92	2455

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BODNER & O'ROURKE, LLP
425 BROADHOLLOW ROAD, SUITE 108
MELVILLE, NY 11747

EXAMINER

TEKLE, DANIEL T

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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11/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/806,606

Applicant(s)

NAKAI, EIJI

Examiner

DANIEL TEKLE

Art Unit

2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621

/Daniel Tekle/
Examiner, Art Unit 2621

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argument regarding claims 1 and 8 on page 8 third paragraph of the remark, "...the information stored in the non-volatile area in according with the apparatus and method of the present invention defined by independent claims 1 and 8 is file information, indicating a file (that is, reference data file) to which data is currently being written. In contrast, the reproduction method and apparatus disclosed in Sakuramoto, et al. published application is location information, which indicates a location (that is, an address) on the recording medium to which data is currently being written. In response the examiner respectively disagrees. Claim 1 and 8 limitation are specifically does not show, how it recover the data during the power interruption, however fig. 5 show the address or the location of the data when the cut off point take place. Similarly Sakuratoto et al. disclose in addition to paragraph 23 and 98, paragraph 101 shows "the disc information, the video reproduction information, and set-up information, as well as the information indicative of the video reproducing position, are always sampled and stored into the last memory 9 during the reproduction, at a desired time period or frequency, therefore those information i.e. the disc information, the video reproduction information and the information indicative of the video reproducing position at the time just before it, are preserved when the power supply is abruptly broken down or is cut off under a bad condition at the electric power supply source of the apparatus. Therefore, when the power supply is turned ON again, it is possible to execute the reproduction continuously from that position, under the same output condition.

Applicant argument regarding claims 1 and 8 on last paragraph of page 8 and first and second paragraph page 9 of the remark, the examiner respectively disagree since the "...updating cycle of the file information.....longer than the updating information disclosed in the Sakuromoto et al." and "...error between the writing end location and writing starting location" did not cover in the claim limitation.

Applicant argument regarding claims 2 and 9 on page 10 first paragraph of the remark, the examiner respectively disagree since the advantage between the pending claim and the reference means of ".....possible to start the writing operation with an increase in the processing load of the apparatus and method reduced and a smaller error, such error being on the order of the size of the frame" not covered in the claim limitation.

Applicant argument regarding claims 3-6 and 10-13 is not clear. if the argument is regarding MPEG format, Sakuramoto discloses MPEG format in paragraph 0096.

Applicant argument regarding claim 14, see response to claim 2 above.

Applicant argument regarding claim 15, the examiner respectively disagree since Sakuramoto et al. invention discloses a discontinue address, position and time during the power failure. The discontinue position which is stored in the memory is the detector for restoring data after the power turned on (paragraph 101).